

GOVERNMENT OF TELANGANA  
ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Sri Kandula Laxmaiah, S/o.Late Veeraiah R/o.Dontalaboru (V) Palvancha (M), Khammam District aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in CMA No.98/2005, dt.22.09.2007- Dismissed - Orders – Issued

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TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.18

Dated: 29-04-2017,  
Read the following:-

- 1) Revision Petition filed by Sri Kandula Laxmaiah, S/o Late Venkaiah R/o. Dontalaboru (V), Palvancha (M), Khammam District  
Dt: 24.12.2007.
  - 2) Govt.Memo.No.221/LTR.2/2008, dt 05.03.2008 & 01.07.2009.
  - 3) From the Addl. Agent to Government, Bhadrachalam, Khammam  
R.P.No.221/LTR-2/2008 (CMA.No.98/2005), dt.20.01.2010.
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**ORDER**

In the reference 1<sup>st</sup> read above, Sri Kandula Laxmaiah, S/o.Late Veeraiah R/o.Dontalaboru (V) Palvancha (M), Khammam District aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in CMA No.98/2005, dt.22.09.2007 in respect of land in Sy.No.248/A to an extent of Acs.1.15 in Sy.No.248/E to an extent of Acs.0.28 and in Sy.No.248/EE to an extent of Acs.0.27 ie., a total of Acs.2.30 guntas in Donthalaboru (V) of Palvancha Mandal, Khammam District.

2. In the reference 2<sup>nd</sup> read above, the Project Officer & Addl. Agent to Government, Bhadrachalam was requested to furnish Para Wise Remarks and connected case records and in the reference 3<sup>rd</sup> read above the Addl. Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- Originally the case was initiated on a report of the Special Deputy Tahsildar (TW), Bhadrachalam before the Spl. Deputy Collector(TW) Bhadrachalam between Thamalla Venkateswarlu (Non-Tribal) as Petitioner and Kandula Laxmaiah, Kandula Gopaiah, Kandula Nagaiah (NTs) as Respondents.
- The Spl.Dy.Collector after due verification of the records has observed that the respondents have failed to produce the original sada sale deed to determine the validity of the document. The respondents also failed to produce the pahani extract for the year 1968-69, 1969-70, 1970-71 as required under law. It is clear that, the respondents have entered the suit land after enforcement of Reg. 1/50 r/w Reg. 1/70, which is void under law. Hence the suit land has been ejected to Govt.
- As per the evidence, it is proved that the transfer of immovable property belonging to the Non-Tribal (petitioner herein) was made to the Non-tribal in contravention of the sub-section 1 of the section-3 as laid in the Andhra Pradesh (Scheduled Areas) Land Transfer Regulation 1959 read with the Regulation I of 1970 after commencement of the said Regulation and as such it is null and void.
- In view of the above, the Spl. Deputy Collector(TW), Bhadrachalam ordered ejectment of the respondent of whomever is in possession of the immovable property in Sy Nos. 248/AA, 248/E, 248/EE and to extent of Acres 1-15, 0-28, 0-27 total 2-30 Acres in Dantlabora village of Khammam District and directed the immovable property in question be taken in to Govt. Custody under cover of panchanama and assign the same to the eligible Tribals, as per rules in force.
- Against the above orders of Spl. Deputy Collector (TW), Bhadrachalam, Sri Kandula Laxmaiah, S/o.Late Veeraiah has filed appeal before the Additional Agent to Government. After due verification of the records, Additional Agent to Government has observed that:-
- The Scheduled land was purchased on 20-8-1968 through an unregistered sale deed. This is in admissible in evidence. As such the decisions of the Hon'ble Supreme court and High Court are not applicable to this case.

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- The Photostat copies of the pahani extracts filed by the appellant shows that Kandula Venkaiah is as enjoyer. But the Thammalla family members are shown as pattadars in the said pahani extracts. If the appellant really purchased the land in the year 1968 as alleged by him his name would have found place in pattadar column from the year of purchase. As such pahani extract and Photostat copy of the sale deed does not help the appellant to prove his case.
- About the Spl. Dy. Tahsildar report the burden is on the appellant to prove his possession that his possession is not in contravention of the regulation. The petitioner totally failed to prove his case.
- In view of the above, the Addl. Agent to Govt. has dismissed the appeal and directed the Tahsildar, Palvancha to take over the to the possession of suit scheduled land into the Govt. custody evicting the persons whomever in the possession and assign the same to the eligible tribal as per rules in force.
- Aggrieved by the above orders, Sri Kandula Laxmaiah, S/o Late Venkaiah has filed Revision Petition before the Govt. wherein he has stated that the court below failed to note and consider that it is not a final authority under provision of Land Transfer Regulation 1/1959, and knowing fully that a statutory right to file revision against its order within 60 days period from the date of receipt of impugned order is provided to the aggrieved parties. The Tahsildar, Palvancha is directed to take over the procession of the suit scheduled land ejecting the persons whoever in the procession under cover of panchanama and assigned the same to the eligible tribals as per non seen force. Thus the Court below caused grave prejudice to the Revision Petitioner herein. The other grounds in the Revision Petition are as follows:-

4 The remarks of the Addl. Agent to Government, Bhadrachalam on the revision petition are as under:

- The Revision Petitioner's case is that the schedule land was purchased on the agreement of sale dt.20.08.1968 by his father and he successes the property from his father. Before the 3<sup>rd</sup> respondent ie., Additional Agent to Government, Bhadrachalam the Photostat copy of alleged sale deed is filed which is inadmissible in evidence. As such the said sale has no value in the eye of law and cannot be considered the sale. The Xerox copies of pahani even in the 1995-96 also do not show that the Revision Petitioners are pattada's. The Revision Petitioners name find place only in enjoyer's column after lapse of long period. If really the Revision Petitioners family purchased the land in the year 1968 as alleged by them, their names would have been recorded in pattadar's column as well as enjoyer's column since 1968. They were not recorded as pattadar's and they are only enjoyers of others land in contravention of Regulation 1/59 as amended by 1/70.
- The Revision Petitioner never raised any object for not giving the report of Spl.Dy.Tahsildar before the lower courts. As per the Regulation the authorities suo motu or on information can registered the case. The burden lies on the non tribal Revision Petitioners to prove his possession is lawful. In this case the Revision Petitioners totally failed to prove their possession as per Revenue Records, The Revision Petitioner's possession is recorded as enjoyers and enjoying the land of another pattadar which is against the Regulation 1/59 as amended by 1/70.
- That the schedule land was purchased on the agreement of sale dt.20.08.1968 by his father and he successes the property from his father. Before the 3<sup>rd</sup> respondent ie., Additional Agent to Government, Bhadrachalam the Photostat copy of alleged sale deed is filed which is inadmissible in evidence. As such the said sale has no value in the eye of law and cannot be considered the sale. The Xerox copies of pahani even in the 1995-96 also do not show that the Revision Petitioners are pattada's. The Revision Petitioners name find place only in enjoyers column after lapse of long period. If really the Revision Petitioners family purchased the land in the year 1968 as alleged by them, their names would have been recorded in pattadar's column as well as enjoyers column since 1968. They were not recorded as pattadar's and they are only enjoyers of others land in contravention of Regulation 1/59 as amended by 1/70. The burden lies on

the non tribal Revision Petitioners to prove his possession is lawful. In this case the Revision Petitioners totally

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failed to prove their possession as per Revenue Records, The Revision Petitioner's possession is recorded as enjoyers and enjoying the land of another pattadar which is against the Regulation 1/59 as amended by 1/70.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Addl. Agent to Govt. it is observed that;

- The appellants pleaded that their father Late Kandula Venkaiah purchased land to an extent of Ac3-00gts in S.No.248 of Dontalaboru (v) from 1) Sri.Thammalla Veeraswamy and 2) Thammalla Chandraiah both sons of Sri Thammalla venkataswamy on 20.08.2008 and that without considering the documents submitted by then the Addl.Agent to Govt Bhadrachalam confirmed the orders of ejectment in CMA.No98/2005 Dt:22.09.2007 passed by the Spl.Dy.Collector Bhadrachalam in case No 260/2004/PVC Dt. 22.08.2005.
- The Revision Petition is examined with reference to the documents and written arguments submitted by the counsel for Revision petitioners. The Revision Petitioner produced copy of sada sale deed / sale agreement stated to be executed by 1) Sri.Thammalla Veeraswamy and 2) Sri Thammalla Chandraiah on 28.08.1968 to the effect that they have sold land in No 248 in Dontalaboru (v) to an extent of Ac 3-00. But as verified from the records the transfer of property was not effected and they are shown only as possessors of the land in question. Further they have produced copies of Pahanis for the year 1968-69,75-76,78-79 and 95-96 and unable produce the Pahanis records, for the remaining years from 1969-70 onwards. They are claiming the land on the strength of a copy sale agreement dt:20.08.1968. Their claim is not tenable.

6. Government after careful examination of the matter here by dismissed the appeal of the Revision Petitioner filed by 1) Sri.Kandula Laxmaiah S/o Late Venkaiah 2) Kandula Gopaiah S/o Late Venkaiah and 3) Kandula Nagaiah S/o Late Venkaiah R/o Dantalaboru (v) and hereby upheld the orders of the Addl.Agent to Government and Project Officer, ITDA, Bhadrachalam dt:22.09.2007 in CMA.No.98/2005 are upheld.

7. The Addl.Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall take necessary further action accordingly. The original case records received in the reference 3<sup>rd</sup> read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

SOMESH KUMAR,  
PRINCIPAL SECRETARY TO GOVERNMENT

To

- 1) Sri Kandula Laxmaiah, S/o Late Venkaiah  
R/o.Dontalaboru (V), Palvancha (M), Erstwhile  
Khammam District now Bhadradi Kothagudem District.
- 2) The Project Officer, ITDA and Additional Agent to Government,  
Bhadrachalam, Bhadradi Kothagudem District (w.e.)

Copy to :

The Spl. Deputy Collector(TW), Bhadrachalam,  
Now Bhadradi Kothagudem District for information and necessary action.  
The Tahsildar, Palvancha Mandal, Now Bhadradi Kothagudem District  
for necessary action.

P.S to Minister (TW)/P.S. to Prl.Secretary(TW)  
SF/SC

// FORWARDED:: BY ORDER//

SECTION OFFICER